

Attorney: for Appellant:

No. 76 - 1315

H. SPENCER KUPPERMAN et al.,
Defendants-Appellees

MOTION TO DISMISS

The appellant further moves to have all of the appellees held in default for failing to file briefs or motions within the

time allowed by the rules of this Court.

Alternatively, the appellant moves to have a ruling on the validity of the transcript entered by the appellees based on the following facts:

1. The court records do not show that notice was given for a conference on June 26, 1974, nor does the court record indicate that such a conference was held.

2. The transcript indicates that Michael Diamond is representing the plaintiff. But the letter written by Mr. Diamond to Mr. Sharfman indicate that Michael Diamond was not present at such a conference.

3. The transcript does not setforth in its opening statement that Mr. Sharfman is present at the conference yet there are statements and references that indicate he is present.

4. The stipulation of settlement referred to in the second paragraph is missing and unaccounted for nor has the appellant been able to prevail upon the courts or the appellees to produce this document.

" Does the Court issue Exhibits in settlements?"

5. Line 22 page 3 of the transcript indicates that the statements made by the Court were read. Can this be a direct cross-examination as this is purported to be?

The appellant moves to have the transcript ruled to be fraudulent and lacking in fact or purpose to support a defense against the complaint.

Appended hereto are copies of the following documents:

1. Docket Sheet of 71 Civ 2734
2. Transcript entered by Appellees
3. Stipulation of Discontinuance
4. Letter written by Richard Sharfman
5. Letter written by Michael Diamond

6. The Stipulation of Discontinuance is fraudulent in that it is dated June 26, 1974 but was not entered into the court until July 1, 1974. (see letter written by Sharfman)

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